

RR-057

Frequently Asked Questions about the Voluntary Party Liability Exemption (VPLE)

Wisconsin Department of Natural Resources

September 2016

This draft document is available for public input. Following completion of the 21-day public input period, all comments will be carefully considered, revisions will be made to the document as needed, a comment response summary will be prepared and the final guidance will be made available.

Comments on this document should be sent to Michael Prager at Michael.prager@wisconsin.gov or 608-261-4927.

This guidance document answers commonly asked questions about the Voluntary Party Liability Exemption (VPLE) program, under Wis. Stat. § 292.15, and is a revision of a prior version. The VPLE program allows for people to conduct environmental remediation of contaminated properties with DNR oversight and receive liability protections.

This document is intended solely as guidance, and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. This guidance does not establish or affect legal rights or obligations, and is not finally determinative of any of the issues addressed. This guidance does not create any rights enforceable by any party in litigation with the State of Wisconsin or the Department of Natural Resources. Any regulatory decisions made by the Department of Natural Resources in any matter addressed by this guidance will be made by applying the governing statutes and administrative rules to the relevant facts.



Frequently Asked Questions about the Voluntary Party Liability Exemption (VPLE)

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General Questions & Eligibility

Q1. Who can participate in the VPLE program?

- The VPLE statute, [Wis. Stat. § 292.15](#), defines voluntary party as a “person who submits an application to obtain an exemption... and pays any fees required.” Any party, even one that caused the contamination, can participate in the VPLE program.

Q2. What types of sites are eligible or ineligible for VPLE?

- In order to be eligible for the VPLE program, and ultimately a Certificate of Completion, a voluntary party must provide confirmation that a hazardous substance discharge has occurred on the property.
- Properties with no known discharges are not eligible for VPLE; however, properties that have undergone past cleanups may be eligible if other conditions are satisfied.
- Wis. Stat. § 292.15(7) declares the following properties ineligible for VPLE:
 - properties with a solid waste facility (disposal area) that meets the definition of an “approved facility” in [Wis. Stat. § 289.01\(3\)](#), (see Question 10)
 - properties with a solid waste facility that is not able to achieve closure under [Wis. Admin. § NR 726](#), without reliance on any active remedial system to ensure compliance with environmental and public health standards, such as active treatment or collection systems relating to groundwater, leachate or gas.
 - sites with certain operating, hazardous waste treatment, storage or disposal facilities are not eligible for VPLE (see Question 11).
 - properties listed or proposed to be listed on the Superfund National Priorities List (NPL).
- For more information about site eligibility criteria go to <http://dnr.wi.gov/topic/brownfields/vple.html>.

Q3. Can a party that buys a property where a cleanup occurred receive a VPLE exemption?

- Yes. However, additional work may be needed to meet VPLE requirements, such as an environmental investigation of the entire property or updates of Phase I and Phase II assessments that are more than 180 days old.

Q4. Can a property that does not require an investigation or cleanup participate in VPLE?

- If there has not been a discharge of a hazardous substance, there is no environmental liability under [Wis. Stat. § 292.11](#), and the property is not eligible for VPLE.

Q5. How does the VPLE process differ from the regular cleanup process?

- There are several differences between receiving a VPLE Certificate of Completion (COC) and a Wis. Admin. § NR 726 closure, including the following:

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- In VPLE, cleanup will not be approved if a full site investigation cannot be conducted due to a structural barrier (e.g., could not sample under the building to complete the investigation).
- A VPLE site investigation addresses known and yet-to-be-discovered discharges and any off-site discharges, not just the "known" discharges;
- Insurance must be purchased at VPLE sites where natural attenuation is used to clean-up groundwater contamination.
- For more information, review the fact sheet [Voluntary Cleanups & Liability Exemptions](#) (RR-506).

Q6. If a party already qualifies for a liability exemption, such as the lender liability exemption or the local government exemption, can they participate in VPLE?

- Yes. It is permissible to possess or qualify for a different liability exemption and participate in the VPLE process.

Q7. Can a party enter the VPLE process to clean up a leaking underground storage tank?

- Yes. The VPLE process can be used to clean up any type of hazardous substance, including petroleum products from a leaking underground storage tank.

Q8. Can a party enter into the VPLE process to clean up agriculture chemical contamination?

- Yes. Sites overseen by the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) can participate in the VPLE process. The DNR project manager will work with DATCP staff to ensure all requirements are met.

Q9. Can a party obtain the VPLE for a sediment remediation project?

- Yes, some sites that include sediment cleanup can use VPLE process if the requirements for found in Wis. Stat. § 292.15(2)(af), are met.
- The voluntary party must conduct an environmental investigation of contamination on the upland property and in the sediment and demonstrate that they have restored the environment to the extent practicable and the harmful effects from the discharges have been minimized.
- The VPLE cannot be issued to a sediment cleanup that relies on an engineering control to address remaining sediment contamination.
- Also, for sediment sites, the voluntary party must obtain insurance (the DNR may waive that requirement or allow another form of financial responsibility for sites without mercury, PCBs or dioxin).

Q10. Can a property that contains a solid waste disposal area or facility (e.g. a landfill) participate in the VPLE process?

- Yes, generally. Properties where a hazardous substance occurred that also include solid waste disposal facilities, licensed or not, are eligible to participate in the VPLE process with limitations.

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- Approved facilities licensed under Wis. Stat. § 289.01(3), are not eligible for VPLE. Approved facilities are usually larger and newer engineered landfills. The VPLE web page on the DNR web site includes a list of approved facilities in Wisconsin.
- Properties that include solid waste disposal areas or facilities must be able to achieve regulatory closure under [Wis. Admin. Ch. NR 700 rule series](#). The DNR cannot issue a VPLE Certificate of Completion for these sites if active remedial operations or treatments (e.g. gas, leachate or groundwater monitoring/ collection/treatment) are required after closure.
- If development is desired on a solid waste disposal area, voluntary parties must obtain DNR approval for an exemption from state regulations that prohibit building on solid waste.

Q11. Can the owner of a property that contains hazardous waste enter the VPLE process and obtain a Certificate of Completion?

- Yes. Most properties that contain hazardous waste can be investigated and remediated through the VPLE process, and the owner can receive a Certificate of Completion.
- One exception is a property with an operating hazardous waste treatment, storage or disposal facility.

Q12. Can a Certificate of Completion be issued to more than one party for a single property?

- Yes. Two or more voluntary parties can receive a COC for one property. Each voluntary party must submit a separate VPLE application to the DNR and they would need to explain to DNR who is paying the technical review fees.

Q13. How does the VPLE program define “property”?

- The VPLE program defines “property” as a contiguous area of land, the entire legal description of which is found in one deed, in accordance with [Wis. Admin. § 700.03\(45e\)](#).

Application: The Beginning of the VPLE Process

Q14. How many applications, fees and advance deposits are required if a party wants to enroll multiple, contiguous properties in the VPLE program?

- If you have more than one “property” (as defined by the VPLE program) you must submit a separate application form and a non-refundable application fee for each “property.”
- If you are conducting site investigations and cleanup work at multiple, contiguous “properties” at the same time, you may be able to submit a single advance deposit, based on the aggregate size of the various properties, rather than multiple deposits. Contact your DNR Project Manager to discuss this option and other fee-related questions.

Q15. When should a party enter the VPLE process?

- Parties are encouraged to apply for admission to the VPLE process as early as possible. It is generally helpful and cost-effective for the Voluntary Party to get DNR review and input at the beginning of the process.

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- Parties can enter the VPLE process after some (or all) environmental work is complete. However, the voluntary party is still required to follow all steps in the Wis. Admin. NR 700 rule series and [Wis. Stat. § 292.15](#) to receive a Certificate of Completion.

Q16. What fees are required to participate in the VPLE process?

- Fees for the VPLE process are established pursuant to Wis. Admin. § NR 750. These fees cover DNR technical review and oversight costs.
- To begin the VPLE process, voluntary parties must submit an application with a nonrefundable \$250 application fee.
- In addition, an advance deposit is required before the DNR can begin providing technical oversight. The advance deposit for VPLE properties is \$2,000 if the property is one acre or less, and \$4,000 if the property is larger than one acre. DNR charges and hourly rate for technical review and oversight work.
- If DNR's technical oversight costs are less than the advance deposit, the voluntary party will receive a refund from the DNR. However, if an advance deposit is depleted before the cleanup work is complete, DNR will bill the voluntary party quarterly on an hourly basis for technical review and oversight work.
- Because DNR charges hourly oversight fees for the VPLE process, Voluntary Parties do not pay the review fees listed in Wis. Admin. § NR 749, with the exception of the GIS fees at closure.

Assessment and Investigation

Q17. What is a Phase I Environmental Assessment?

- Wis. Admin § NR 700.03(43g) defines a Phase I as “an assessment of a site to identify potential or known areas of environmental contamination. This assessment may include reviewing records, interviewing persons, and conducting physical inspections of the site.” A Phase I Environmental Assessment identifies recognized environmental conditions at a property. Recognized environmental conditions generally are the presence or likely presence of any hazardous substance on a property.
- A Phase I Assessment may include, but is not limited to, a full review of property records, interviews with people having knowledge of the property and a physical inspection of the site.
- In general, DNR recommends that VPLE applicants and their contractors follow the most current [ASTM standard](#) when conducting an environmental assessment. For a property in VPLE, the goal of a Phase I is to identify all areas on the property that may have had a discharge of a hazardous substance or where environmental pollution or solid waste are present. As a result, DNR may require more information about the history of the site and former uses than the minimum ASTM standard suggests. Also, DNR may ask a voluntary party to investigate areas that do not meet the ASTM definition of a recognized environmental condition.
- If the project involves federal brownfields funding, a Phase I conducted in accordance with EPA's All-Appropriate Inquiry rule may be required.

Q18. What is a Phase II Environmental Assessment?

- Wis. Admin § NR 700.03(43r) defines a Phase II as “an assessment of a site to physically confirm that contamination exists in potential or known areas of environmental contamination identified in the Phase I environmental assessment, but not to determine the nature, degree and extent of contamination. This

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assessment may include field sampling of media, laboratory analysis of samples and visual confirmation of environmental contamination at the site.”

- A Phase II Environmental Assessment is conducted to confirm the presence or absence of environmental contamination in areas identified as recognized environmental conditions in the Phase I Assessment.
- A Phase II Assessment may include, but is not limited to, field sampling of soil, groundwater, air and other media; laboratory analysis of samples and visual evidence of environmental contamination of the site. DNR recommends following ASTM’s most current standard when conducting an environmental assessment.
- Depending on past and current use of the property, and the thoroughness of the Phase I, DNR may require more sampling than usually occurs during a basic Phase II in order to identify all areas where discharges of hazardous substances have occurred or where solid waste or environmental pollution is present.
- The Phase II does not determine the degree and extent of contamination. This happens during the site investigation. In Wisconsin, this is called a Wis. Admin. § NR 716 site investigation (see Question 18).

Q19. Is a Phase II Environmental Assessment the same as a NR 716 site investigation?

- No. A Phase II Environmental Assessment only verifies that one or more discharges have occurred on the site. A Wis. Admin. § NR 716 site investigation defines the nature, degree and extent of contamination.

Q20. Do older Phase I and Phase II assessments need to be updated?

- Yes, the update should describe any changes associated with the property that may affect environmental conditions at the site.
- DNR recommends that you provide an update that is compliant with the current ASTM standard (ASTM-1527 and ASTM-1903) for any environmental assessment that is more than six months old.

Q21. What type of environmental investigation is required for VPLE?

- For VPLE, an “environmental investigation of the property” as defined in Wis. Admin. § NR 750.03(2m), includes three important steps: the Phase I Environmental Assessment; the Phase II Environmental Assessment; and a site investigation of the entire property that follows [Wis. Admin. § NR 716](#).
- The investigation is not limited to the VPLE property boundary if the hazardous substances, solid waste or environmental pollution have migrated off the property.

Q22. Who conducts the NR 716 site investigation?

- VPLE applicants must hire an environmental consultant who meets the professional qualifications required by [Wis. Admin. § NR 712](#). In some cases, the site investigation may be funded by a party other than the applicant.

Cleanup Requirements

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Q23. What environmental standards must be followed to receive DNR approval of a cleanup?

- The cleanup standards for a VPLE site are the same as for any other type of contaminated site. All applicable federal, state and local environmental laws and regulations must be followed.
- The main cleanup standards in Wisconsin are described in the Wis. Admin. Ch. NR 700 rule series. Groundwater standards are found in [Wis. Admin. § NR 140](#). These regulations apply to all types of contamination, regardless of the source of contamination or type of site.

Q24. Who can conduct a VPLE cleanup?

- Any party can conduct a VPLE cleanup. The voluntary party (VPLE applicant) hires a Wis. Admin. § NR 712 compliant environmental consultant to plan for and conduct the cleanup activities. The cleanup must be conducted in accordance with the requirements contained in the [Wis. Admin. Ch. NR 700 rule series](#).

Q25. Can an engineering control, such as a cap, be used to prevent exposure to contamination as part of the cleanup at a VPLE site?

- Yes, for all media but sediment. If an engineering control is approved by DNR as part of a remedial action plan, it can be used as part of a VPLE cleanup. Engineering control means an action designed and implemented to contain contamination or to minimize the spread of contamination.
- Any continuing obligations required for residual contamination, pursuant to [Wis. Stat. § 292.12](#), will be identified and included in the closure letter issued by DNR. The exemption from liability, both for the voluntary party and future property owners, is contingent upon continued adherence to all requirements in the closure letter and state laws.
- Any engineering control or soil cover that is permitted will be designed to be protective in relation to the current use of the site. The required cap for an industrial property that will remain in industrial use will likely differ from an engineering control at the same property where the intended future use is multi-family or single family housing.

Q26. What if a building or other structure prevents a Voluntary Party from conducting a complete site investigation?

- If a building or other structure impedes your ability to complete the site investigation that is needed, the site can obtain a case closure letter but it does not qualify for a Certificate of Completion because the site investigation is not complete.

Q27. What happens if a cleanup is approved for a certain type of land use at a VPLE property, and that land use changes after the Certificate of Completion is issued?

- Cleanups are approved based on the land use of the property (industrial or non-industrial) at the time of closure. The closure letter and Certificate of Completion may require the property owner receive written approval from DNR prior to a change in the use of the property in the future. This approval is necessary to ensure the remedy is still protective of public health and, therefore, ensures the liability exemption will remain in place. The DNR may require more site investigation and/or clean-up work based on the proposed future land use.
- Property owners should contact DNR if land use changes are desired at a VPLE property after a Certificate of Completion is issued. The DNR and the owner can discuss options and processes.

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Q28. Is cleanup of solid waste (e.g. historic fill) on a property required to obtain a COC?

- Voluntary parties (VPLE applicants) are required to take appropriate actions to address solid waste (e.g. historic fill) on the property before DNR will issue a Certificate of Completion.
- If development is desired on a property that contains a solid waste disposal area, voluntary parties must obtain DNR approval for an exemption from state regulations that prohibit development on solid waste. This is required before and after issuance of a Certificate of Completion. More information on the requirements and process to get DNR approval is available on the DNR web site. See “Development on Historic Fill Sites and Licensed Landfills” on this page <http://dnr.wi.gov/topic/Landfills/development.html>.

Q29. Can I bring in soil or other fill material to a property in the VPLE program?

- If the site has not received a Certificate of Completion, you must test the soil before it is moved to the property and obtain prior DNR approval. If the characteristics and quality of material brought to the property is unknown, the DNR would consider your environmental investigation incomplete. You must also follow all applicable regulatory requirements including [Wis. Admin. § NR 718.12](#). Voluntary parties and their contractors should follow this DNR guidance document: [Obtaining DNR Approval Prior to Use of Imported Soil and Other Fill Materials on Voluntary Party Liability Exemption Sites, Wis. Stats. §292.15](#).

If the site received a Certificate of Completion already, you must follow any continuing obligation requirements in the closure letter and cap maintenance plan. You must also follow all applicable regulatory requirements including [Wis. Admin. § NR 718.12](#). It is advised and may be required that you obtain prior DNR approval to import soil and develop the property. If the imported material is contaminated, the Certificate of Completion would not protect the parties importing the soil from liability.

VPLE Certificate of Completion

Q30. When does a voluntary party obtain the liability exemption?

- VPLE Certificates of Completion are issued when DNR determines that all requirements in [Wis. Stat. § 292.15](#) and the [Wis. Admin. Ch. NR 700 rule series](#) have been met. The primary requirement is that DNR must determine that the property, and any off-site discharges, have been satisfactorily remediated to the extent practicable and the harmful effects from the discharge(s) have been minimized.
- Once DNR makes an affirmative determination that these requirements have been met, and all applicable fees are paid, the Certificate of Completion is issued and the voluntary party obtains the environmental liability exemption.

Q31. How long does it take to obtain a VPLE Certificate of Completion?

- The length of time it has taken parties to receive a VPLE Certificate of Completion has ranged from five months to seven years. The amount of time varies greatly depending on property-specific circumstances. Larger, more complicated properties can take longer to investigate, and different remediation techniques require different lengths of time to work. How expeditiously a voluntary party undertakes a project also affects completion times.

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Q31. What are the benefits of obtaining a Voluntary Party Liability Exemption?

- Three primary benefits are granted once DNR issues a VPLE Certificate of Completion:
 - no further response actions are required at the property if environmental standards change;
 - the voluntary party and/or property owner are not liable if an approved cleanup remedy is later discovered to have failed to fully restore the environment; and
 - there is no liability for contamination that is cleaned up but later found to be more extensive than originally thought.
- These protections only apply to hazardous substance discharges that occurred or solid waste disposed of on the property prior to the date the VPLE site investigation is approved by the DNR.

Q33. If a VPLE Certificate of Completion is issued and some contamination was missed during the site investigation and cleanup, who is responsible for conducting any further work?

- In this situation, DNR would attempt to identify parties who caused the contamination and are not covered by the Voluntary Party Liability Exemption. If located, DNR would direct them to take responsibility for the remaining contamination.
- If there are no viable responsible parties who caused the contamination, DNR would evaluate the public health and environmental impacts at the site to determine if the state should remediate the newly identified contamination. The property owner may choose to conduct additional cleanup on a voluntary basis.

Q34. Once a Certificate of Completion is issued, is the voluntary party exempt from all state and federal environmental liability at the property?

- No. VPLE only exempts parties from portions of Wisconsin's Hazardous Substance Discharge Law, Wis. Stat. § 292.11 and portions of state solid waste and hazardous waste laws.
- Wis. Stat. § 292.15 does not exempt parties from any federal laws or regulations. However, DNR and the U.S. Environmental Protection Agency (EPA) operate in Wisconsin under a One Cleanup Program Memorandum of Agreement (MOA) that clarifies the role of federal cleanup programs in Wisconsin's voluntary cleanups. In addition, the federal Small Business Liability Relief and Brownfields Revitalization Act restricts federal action at sites in a state cleanup program like VPLE. EPA will generally not take action at a property where the responsible or voluntary party is undertaking or has completed a cleanup in accordance with Wisconsin laws.

Q35. Can a voluntary party sell a VPLE property before receiving a Certificate of Completion?

- Yes. Anyone can own the property as long as the requirements of VPLE are met. In some cases, parties are able to work out a deal where a purchaser agrees to buy a property that is going through the VPLE process.
- Buyers and sellers of VPLE properties usually can enter into agreements that assign responsibility for completing the cleanup. Depending on the site circumstances and the type of remediation required, purchasers may be able to construct a building or use part of the property for some productive use while the cleanup continues.

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Q36. Can a voluntary party obtain a Certificate of Completion if closure requirements at a property are met using natural attenuation as a remedy?

- Yes. The VPLE statute allows parties to obtain a COC at properties before groundwater standards have been met if a party can meet other state closure requirements, including a demonstration that natural attenuation will bring the groundwater into compliance with state enforcement standards.
- To obtain a VPLE Certificate of Completion at a property using natural attenuation, an environmental insurance fee must be paid to the DNR. For more information on the insurance requirements for natural attenuation at VPLE properties and a schedule of insurance fees, please see [Insurance for Voluntary Party Liability Exemption Sites Using Natural Attenuation: Information and Fee Schedule](#) (RR-661) or contact your project manager.

Q37. Can a Certificate of Completion be obtained if some of the contamination on a VPLE property originated from a source on a different property?

- Yes. Voluntary parties can receive a Certificate of Completion if there is hazardous substance on the VPLE property that originates from a source on a different property that is not possessed or controlled by the voluntary party, as long as all VPLE requirements are met.
- The voluntary party must obtain a written DNR determination that they meet all requirements in [Wis. Stat. § 292.13](#). To be eligible for the off-site exemption, the voluntary party cannot have owned, or currently own, the property that is the source of the migrating contamination.

Q38. How is a VPLE Certificate of Completion assigned to a new property owner?

- The liability exemption conveyed by a VPLE Certificate of Completion runs with the land, is transferrable and applies to any successor or assignee of the voluntary party.
- If someone purchases the VPLE property after a Certificate of Completion is issued, they are a successor and will be protected by the liability exemption for discharges that occurred prior to the date the VPLE site investigation was approved.
- The voluntary party liability exemption is statutory; no specific action or documentation is needed to transfer this exemption to successors and assigns. However, purchasers may download a copy of the VPLE Certificate of Completion, which may be recorded by the seller or the buyer with the new property deed.

Q39. What responsibilities exist for someone who purchases a property with a VPLE Certificate of Completion?

- Purchasers of property with a VPLE Certificate of Completion are required to comply with all conditions and requirements specified in the DNR closure letter. These continuing obligations may include the maintenance and monitoring required to address residual contamination on the property. Copies of closure letters and other information related to cleanup sites is available online in the Bureau for Remediation and Redevelopment Tracking System database called [BRRTS on the Web](#).

Q40. What do I have to do if I want to build a new building, landscape an area or make other changes to my property after a Certificate of Completion is issued?

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- Property owners must carefully review the closure letter and Certificate of Completion to determine if the actions proposed are limited by the continuing obligation requirements per Wis. Admin. § NR 727.07. If so, the owner will need prior written approval from the DNR. If the property owner fails to meet these requirements, the liability exemption could be revoked by DNR. Closure letters for VPLE sites often require DNR approval before modifying a cap over residual contamination, constructing a new building, installing a well, excavating soil and other actions. Contact the DNR project manager before undertaking any action for information about the post-closure modification review process.

Withdrawal from the VPLE Process

Q41. Can a voluntary party withdraw from the VPLE process?

- Yes. A voluntary party can withdraw from the VPLE process at any time by providing written notification of withdrawal to DNR.
- Withdrawing from the VPLE process does not exempt responsible parties from any legal requirements related to investigating and conducting an environmental cleanup. Anyone who caused the hazardous substance discharge, or owns/controls the property, and is not covered by another liability exemption, is required to address known contamination on the property in accordance with the Wis. Admin. Ch. NR 700 rule series.

Q42. Can a Voluntary Party be withdrawn from the VPLE process by the DNR?

- Yes. In accordance with Wis. Stats. § 292.15(2)(av) and Wis. Admin. § NR 750.05(4), if a voluntary party fails to make reasonable progress on the investigation and cleanup, they may be withdrawn from VPLE by the DNR.

Q43. Will VPLE fees and deposits be refunded if a party voluntarily withdraws or is withdrawn by DNR?

- Upon receiving or providing written notification of withdrawal from the VPLE process, DNR will return any remaining, unused funds from the advance deposit after all funds due to the DNR are paid.
- The VPLE application fee is nonrefundable. A new application fee will be required to reenter the VPLE process.

Partial Certificate of Completion

Q44. What is a Partial VPLE Certificate of Completion?

- DNR is authorized by statute to approve a partial VPLE cleanup and issue a partial Certificate of Completion. A partial cleanup only addresses contamination on a specific area of the property or certain hazardous substances on the property. Parties who want a partial COC must meet all VPLE requirements for a full COC for the contaminants or smaller area that the partial COC covers.
- DNR only considers requests for partial VPLE Certificates of Completion after DNR approves a complete site investigation of the entire property, including contamination that may have migrated off-site.
- In order to receive a partial COC, parties must also ensure that: public health, safety or the environment will not be endangered by any hazardous substances remaining on or originating from the property after

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the partial cleanup; the development or use of the property will not aggravate or contribute to the discharge of a hazardous substance on or originating from the property; the development or use of the property will not unduly interfere with, or increase the cost of, cleaning up the remaining contamination on the property; and the owner of the property will cooperate with the DNR to address the contamination remaining on the property.

- If necessary, owners must agree to allow the DNR, or representatives of the DNR, to access the property for environmental activities, such as placement of borings, equipment or structures on the property.
- A partial COC will state that not all of the property has been satisfactorily restored and that not all harmful effects from discharges of hazardous substances have been minimized.
- For a site with sediment contamination, a partial Certificate of Completion can be issued if the RP or another party signs an agreement to clean up the sediment and provides financial assurance to cover the sediment cleanup.